

106TH CONGRESS
2D SESSION

S. _____

IN THE SENATE OF THE UNITED STATES

Mr. ALLARD introduced the following bill; which was read twice and referred
to the Committee on _____

A BILL

To transfer administrative jurisdiction over Rocky Flats Environmental Technology Site, Colorado, a defense nuclear facility, from the Secretary of Energy to the Secretary of the Interior, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Rocky Flats National
5 Wildlife Refuge Act of 2000”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) COALITION.—The term “Coalition” means
9 the Rocky Flats Coalition of Local Governments es-

1 tablished by the Intergovernmental Agreement,
2 dated February 16, 1999, among—

- 3 (A) the city of Arvada, Colorado;
- 4 (B) the city of Boulder, Colorado;
- 5 (C) the city of Broomfield, Colorado;
- 6 (D) the city of Westminister, Colorado;
- 7 (E) the town of Superior, Colorado;
- 8 (F) Boulder County, Colorado; and
- 9 (G) Jefferson County, Colorado.

10 (2) HAZARDOUS SUBSTANCE.—The term “haz-
11 ardous substance” has the meaning given the term
12 under section 101 of the Comprehensive Environ-
13 mental Response, Compensation, and Liability Act
14 of 1980 (42 U.S.C. 9601).

15 (3) POLLUTANT OR CONTAMINANT.—The term
16 “pollutant or contaminant” has the meaning given
17 the term under section 101 of the Comprehensive
18 Environmental Response, Compensation, and Liabil-
19 ity Act of 1980 (42 U.S.C. 9601).

20 (4) REFUGE.—The term “refuge” means the
21 Rocky Flats National Wildlife Refuge established
22 under section 4(a).

23 (5) RESPONSE ACTION.—The term “response
24 action” has the meaning given the term “response”
25 under section 101 of the Comprehensive Environ-

1 mental Response, Compensation, and Liability Act
2 of 1980 (42 U.S.C. 9601).

3 (6) RFCA.—The term “RFCA” means the
4 Rocky Flats Cleanup Agreement, an intergovern-
5 mental agreement, dated July 19, 1996, among—

6 (A) the Department of Energy;

7 (B) the Environmental Protection Agency;

8 and

9 (C) the Department of Public Health and
10 Environment of the State of Colorado.

11 (7) ROCKY FLATS.—The term “Rocky Flats”
12 means the Rocky Flats Environmental Technology
13 Site, Colorado, a defense nuclear facility, as depicted
14 on the map entitled “Rocky Flats Environmental
15 Technology Site”, dated July 19, 1999.

16 (8) SECRETARY.—The term “Secretary” means
17 the Secretary of Energy.

18 **SEC. 3. TRANSFER OF MANAGEMENT RESPONSIBILITIES**

19 **AND JURISDICTION OVER ROCKY FLATS.**

20 (a) IN GENERAL.—

21 (1) MEMORANDUM OF UNDERSTANDING.—Not
22 later than October 1, 2007, the Secretary and the
23 Secretary of the Interior shall enter into a memo-
24 randum of understanding under which the Secretary

1 shall transfer to the Secretary of the Interior admin-
2 istrative jurisdiction over Rocky Flats.

3 (2) EXCLUSIONS.—The transfer under para-
4 graph (1) shall not include any property or facility—

5 (A) over which the Secretary retains juris-
6 diction, authority, and control under subsection
7 (b)(1); or

8 (B) that is designated for disposal under
9 section 5.

10 (3) CONDITION.—The transfer under paragraph
11 (1) shall occur on receipt by the Secretary of certifi-
12 cation from the Administrator of the Environmental
13 Protection Agency that any response action or other
14 action required to be carried out at Rocky Flats has
15 been completed, excluding any operation or mainte-
16 nance associated with the action.

17 (4) COST; IMPROVEMENTS.—The transfer
18 shall—

19 (A) be completed without cost to the Sec-
20 retary of the Interior; and

21 (B) include such improvements on the
22 property as the Secretary of the Interior may
23 request in writing for refuge management pur-
24 poses.

1 (b) PROPERTY AND FACILITIES EXCLUDED FROM
2 TRANSFERS.—

3 (1) IN GENERAL.—The Secretary shall retain
4 jurisdiction, authority, and control over all real prop-
5 erty at Rocky Flats that is to be used for—

6 (A) water treatment;

7 (B) the treatment, storage, or disposal of
8 a hazardous substance, pollutant, or contami-
9 nant; or

10 (C) any other purpose related to a re-
11 sponse action or any other action that is re-
12 quired to be carried out at Rocky Flats.

13 (2) CONSULTATION.—The Secretary shall con-
14 sult with the Secretary of the Interior on the identi-
15 fication and management of all real property re-
16 tained under this subsection to ensure, to the max-
17 imum extent practicable, that any activity carried
18 out on the property is consistent with—

19 (A) the purposes for which the refuge is
20 established under section 4(b); and

21 (B) paragraph (1).

22 (3) ACCESS.—As a condition of the transfer
23 under subsection (a), the Secretary shall be accorded
24 all easements and access as may be reasonably re-

1 quired to carry out any obligation or address any
2 other liability described in subsection (c)(4).

3 (c) ADMINISTRATION.—

4 (1) IN GENERAL.—On completion of the trans-
5 fer under subsection (a), the Secretary of the Inte-
6 rior shall administer Rocky Flats subject to—

7 (A) any response action at Rocky Flats
8 carried out by or under the authority of the
9 Secretary under the Comprehensive Environ-
10 mental Response, Compensation, and Liability
11 Act of 1980 (42 U.S.C. 9601 et seq.);

12 (B) any other action required under any
13 other law to be carried out by or under the au-
14 thority of the Secretary;

15 (C) the Endangered Species Act of 1973
16 (16 U.S.C. 1531 et seq.);

17 (D) the Migratory Bird Treaty Act (16
18 U.S.C. 703 et seq.);

19 (E) the Bald Eagle Protection Act (16
20 U.S.C. 668 et seq.);

21 (F) the Federal Noxious Weed Act (7
22 U.S.C. 2801 et seq.); and

23 (G) any other applicable provision of law.

24 (2) CONFLICT.—In the case of any conflict be-
25 tween management of the property by the Secretary

1 of the Interior and the conduct of any response ac-
2 tion or other action described in subparagraph (A)
3 or (B) of paragraph (1), the response action or other
4 action shall take priority.

5 (3) CONTINUING ACTIONS.—Except as provided
6 in paragraph (1), nothing in this subsection affects
7 any response action or other action initiated at
8 Rocky Flats on or before the date of the transfer
9 under subsection (a).

10 (4) LIABILITY.—The Secretary shall retain any
11 obligation or other liability for land transferred
12 under subsection (a) under the Comprehensive Envi-
13 ronmental Response, Compensation, and Liability
14 Act of 1980 (42 U.S.C. 9601 et seq.).

15 (d) DEGREE OF CLEANUP.—Nothing in this Act re-
16 stricts or otherwise affects any degree of cleanup required
17 to be carried out at Rocky Flats under—

18 (1) the Comprehensive Environmental Re-
19 sponse, Compensation, and Liability Act of 1980 (42
20 U.S.C. 9601 et seq.);

21 (2) any provision of the RFCA, including—

22 (A) the substance or performance of a cor-
23 rective action decision, record of decision, or
24 any other study or assessment conducted under
25 the RFCA;

1 (B) the contents and conclusions of a cor-
2 rective action decision, record of decision, or
3 any other study or assessment conducted under
4 the RFCA; or

5 (C) the selection and implementation of 1
6 or more response actions and any action re-
7 quired under any other law at Rocky Flats or
8 the surrounding area; or

9 (3) any other applicable provision of law.

10 (e) PAYMENT OF RESPONSE ACTION COSTS.—Noth-
11 ing in this Act affects the obligation of a Federal depart-
12 ment or agency that had or has operations at Rocky Flats
13 resulting in the release or threatened release of a haz-
14 ardous substance, pollutant, or contaminant to pay the
15 cost of response actions carried out to abate the release
16 of, or clean up, the hazardous substance, pollutant, or con-
17 taminant.

18 (f) CONSULTATION.—In carrying out a response ac-
19 tion at Rocky Flats, the Secretary shall consult with the
20 Secretary of the Interior to ensure that the response ac-
21 tion is carried out in a manner that, to the maximum ex-
22 tent practicable, furthers the purposes described in section
23 4(b).

24 **SEC. 4. ROCKY FLATS NATIONAL WILDLIFE REFUGE.**

25 (a) ESTABLISHMENT.—

1 (1) IN GENERAL.—Not later than 30 days after
2 the transfer of jurisdiction under section 3(a)(1), the
3 Secretary shall establish at Rocky Flats a national
4 wildlife refuge to be known as the “Rocky Flats Na-
5 tional Wildlife Refuge”.

6 (2) COMPOSITION.—The refuge shall consist of
7 the real property transferred under section 3(a)(1).

8 (3) NOTICE.—The Secretary of the Interior
9 shall publish in the Federal Register a notice of the
10 establishment of the refuge.

11 (b) PURPOSES OF REFUGE.—The purposes referred
12 to in subsection (a)(1) are—

13 (1) to conserve and enhance populations of fish,
14 wildlife, and plants in the refuge, including—

15 (A) populations of waterfowl, raptors, pas-
16 serines, and marsh and water birds; and

17 (B) the natural diversity of fish, wildlife,
18 and plants (including associated habitats);

19 (2) to conserve species that are listed as threat-
20 ened species or endangered species under the En-
21 dangered Species Act of 1973 (16 U.S.C. 1531 et
22 seq.) (including species that are candidates for list-
23 ing under that Act);

24 (3) to provide maximum fish- and wildlife-ori-
25 ented public uses at levels compatible with the con-

1 servation and enhancement of wildlife and wildlife
2 habitat;

3 (4) to provide opportunities for compatible sci-
4 entific research;

5 (5) to provide opportunities for compatible envi-
6 ronmental and land use education;

7 (6) to protect and enhance the quality of aquat-
8 ic habitat within the refuge; and

9 (7) to meet international treaty obligations of
10 the United States with respect to fish and wildlife
11 and associated habitats.

12 (c) ADMINISTRATION.—

13 (1) IN GENERAL.—The Secretary of the Inte-
14 rior shall manage the refuge in accordance with—

15 (A) the National Wildlife Refuge System
16 Administration Act of 1966 (16 U.S.C. 668dd
17 et seq.); and

18 (B) other applicable law.

19 (2) PUBLIC INVOLVEMENT.—

20 (A) IN GENERAL.—

21 (i) ESTABLISHMENT OF PROCESS.—

22 Not later than 90 days after the date of
23 enactment of this Act, in developing plans
24 for the management of fish and wildlife at
25 and public use of the refuge, the Secretary,

1 the Secretary of the Interior, the Coalition,
2 and the Governor of the State of Colorado,
3 in consultation with other interested Fed-
4 eral agencies, shall establish a process for
5 involvement of the public and local commu-
6 nities to carry out subparagraph (B).

7 (ii) DISSOLUTION OF COALITION.—If
8 the Coalition dissolves before the date
9 specified in clause (i), a designated elected
10 individual from the entities comprising the
11 Coalition shall represent the Coalition in
12 carrying out that clause.

13 (B) PURPOSES.—The public involvement
14 process developed under clause (i) shall identify
15 options and recommendations for the long-term
16 management of the refuge, including—

17 (i) the identification of the manage-
18 ment policies that would be most appro-
19 priate, in accordance with section 4(b);

20 (ii) recommendations regarding the
21 transfer, conveyance, sale, purchase, or
22 lease of property authorized under sub-
23 sections (b) and (c) of section 5;

1 (iii) recommendations regarding pri-
2 vate property and mineral rights ownership
3 on Rocky Flats;

4 (iv) recommendations regarding the
5 identification of any land the area depicted
6 on the map as the “Potential Regional
7 Transportation Corridor”, that could be
8 made available for regional transportation
9 purposes; and

10 (v) recommendations regarding the
11 feasibility of locating, and potential loca-
12 tions for, a visitor and education center
13 and a Rocky Flats museum at the refuge.

14 (C) REPORT.—Not later than 2 years after
15 the date of enactment of this Act, the Secretary
16 and the Secretary of Interior, in coordination
17 with the Coalition and the Governor of the
18 State of Colorado, shall submit to Congress a
19 report that contains the identification and rec-
20 ommendations described in subparagraph (B).

21 (d) LIMITATIONS.—

22 (1) PROHIBITION AGAINST ANNEXATION.—Not-
23 withstanding section 5(a)(2) of the National Wildlife
24 Refuge System Administration Act of 1966 (16
25 U.S.C. 668dd(a)(2)), the Secretary of the Interior

1 shall not allow the annexation of land within the ref-
2 uge by any unit of local government.

3 (2) PROHIBITION AGAINST THROUGH ROADS.—

4 No public road shall be constructed through the ref-
5 uge, except to administer or improve the refuge in
6 accordance with a recommendation of the report
7 under subsection (c)(2)(C).

8 (3) LINDSAY RANCH.—The structures that
9 comprise the former Lindsay Ranch homestead site
10 in the Rock Creek Reserve area of the buffer zone
11 as depicted on the map shall be permanently pre-
12 served and maintained in accordance with the Na-
13 tional Historic Preservation Act (16 U.S.C. 470 et
14 seq.).

15 (4) PROHIBITION AGAINST CONSTRUCTION.—

16 No permanent construction shall be permitted at the
17 refuge, except for—

18 (A) the construction of trails for non-mo-
19 torized use; and

20 (B) other construction necessary to carry
21 out section 3(c), subsection (b), and the rec-
22 ommendations of the report under subsection
23 (c)(2)(C).

24 (e) RESPONSE ACTION.—Any response action or
25 other action required to be carried out at Rocky Flats

1 shall attain a degree of cleanup of hazardous substances,
2 pollutants, and contaminants for which the response ac-
3 tion or other action was initiated that, at a minimum—

4 (1) is sufficient to fully meet the purposes de-
5 scribed in section 4(b); and

6 (2) permit safe access to all real property com-
7 prising the refuge by refuge personnel, wildlife re-
8 searchers, and visitors.

9 **SEC. 5. DISPOSAL OF CERTAIN REAL PROPERTY AT ROCKY**
10 **FLATS FOR COMMERCIAL, HIGHWAY, OR**
11 **OTHER PUBLIC USE.**

12 (a) FEDERAL OWNERSHIP.—Except as provided by
13 subsection (b), all right, title, and interest of the United
14 States, held or acquired after the date of enactment of
15 this Act, in and to land within the boundaries of Rocky
16 Flats shall be retained by the United States for the refuge.

17 (b) DISPOSAL OF REAL PROPERTY.—The Secretary
18 may transfer, convey, sell, purchase, or lease a parcel of
19 real property at Rocky Flats only—

20 (1) to improve Rocky Flats in accordance with
21 the recommendations of the report under section
22 4(c)(2)(C);

23 (2) to improve property at Rocky Flats to carry
24 out this Act more effectively;

1 (3) to provide for the improvement of public
2 roads or the development of alternative means of
3 transportation in the refuge in accordance with this
4 Act; or

5 (4) to purchase any private property or private
6 mineral right at Rocky Flats.

7 (c) LEASE.—

8 (1) IN GENERAL.—The Secretary of Interior
9 may lease not to exceed 100 acres at the refuge in
10 the area depicted on the map as the former Rocky
11 Flats buffer zone site to carry out projects of the
12 National Renewable Energy Laboratory.

13 (2) CONDITION FOR LEASE.—Any lease under
14 paragraph (1) shall be offered and entered into in
15 accordance with subsections (b) and (c)(2)(C) of sec-
16 tion 4.

17 (d) PROCEEDS OF SALES OR LEASES.—Any amounts
18 realized by the United States on a sale or lease of property
19 under this section shall be—

20 (1) made available to the Director of the United
21 States Fish and Wildlife Service; and

22 (2) used, to the extent authorized, to supple-
23 ment the funds otherwise made available for a vis-
24 itor and education center and a Rocky Flats histor-
25 ical museum at the refuge.

1 (e) DISPOSAL.—Any disposal of real property under
2 this section shall be carried out in accordance with—

3 (1) section 120(h) of the Comprehensive Envi-
4 ronmental Response, Compensation, and Liability
5 Act of 1980 (42 U.S.C. 9620(h)); and

6 (2) any other applicable provision of law.